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Supreme Court, U.S.
FILED
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No. 06-744

IN THE

Supreme Court of the United States

RAYMOND STACEY, INDIVIDUALLY AND AS
CO-EXECUTOR OF THE LAST WILL OF HELEN STACEY
Petitioners

v.

CITY OF HERMITAGE, ET AL.
Respondents

On Petition for a Writ of Certiorari to the
United States Court of Appeals for the Third Circuit

REPLY IN SUPPORT OF PETITION FOR WRIT OF CERTIORARI

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February 10, 2007, Saturday

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REPLY IN SUPPORT OF AWARDING ATTORNEY FEES ON APPEAL

The Petition for Certiorari has been filed with the Court seeking review of the per curiam opinion of the Third Circuit Court of Appeals. The panel there refused to grant Petitioners' request for attorney's fees under the plain umbrella language of "vacated with costs," as mandated by the Supreme Court in its judgment of this case last year. See Petition Appendix at App. 1.

This case presents the perfect vehicle for the Court to review not only the award of ***attorney fees on appeal***, but also other important issues raised in Petitioners' Questions Presented, including judicial ***immunity of a trial judge*** for usurping appellate jurisdiction and the ***right of pro se*** [1] ***litigants to amend*** their original complaint to include ***all*** valid ***independent claims*** under *Exxon Mobil Corp. v. Saudi*

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[1] The Plaintiffs below, Helen and Raymond Stacey (mother and son) were forced to file their original Complaint ***pro se*** because they were unable to find counsel, even though Raymond had made over 300 solicitations in Western Pennsylvania and Eastern Ohio for help.

The City of Hermitage in its brief disparages the use of the term "***pro se***" in describing the original Complaint and the Plaintiffs below. (City Brief at 4 n.1, 11-12). We do not know of a shorter term to use than "***pro se***" to mean "without counsel", other than "alone". For over a year in state court on appeal from denial of her injunction against the City, Helen was without counsel, i.e., ***pro se***, to the Pennsylvania Supreme Court and to this Court, from January 2002 thru April 2003. In federal court, she and Raymond were without counsel from November 6, 2002, when they filed their original ***pro se*** Complaint, until her death in May 2003. Raymond was substituted in her place and continued ***pro se*** until early March 2005. The entire period of going it alone, i.e., ***pro se***, for both Plaintiffs lasted more than three years.

The only attorney who showed an interest in the case was paid $7,500 up front to handle the first appeal to the Third Circuit – where his appearance was stricken for failure to proceed. This attorney kept the money, did not file a single brief, and was disbarred and jailed in Ohio for misappropriating client funds and tax evasion.

Basic Industries Corp., 544 U.S. 280 (2005). Accordingly, the Court should accept the Petition for review.

Rule 43 of the U.S. Supreme Court identifies the ***"prevailing" party as that "side" which is allowed costs***. The plain language of the judgment and mandate of this Court as set forth in *Stacey v. City of Hermitage* (U.S. S.Ct. No. 05-199 (2005)) is not open to interpretation on the subject of costs and the availability of attorney fees for the prevailing party. The Supreme Court issued a final order in its mandate which conclusively determined that the Petitioners were the prevailing parties on appeal:

> [I]t is ordered and adjudged by this Court that the petition for writ of certiorari is granted, and the judgment of the [Third Circuit] in this cause is ***vacated with costs***. * * * IT IS FURTHER ORDERED that the petitioner Raymond Stacey, Individually and as Co-Executor of the Last Will of Helen Stacey recover from the City of Hermitage, Pennsylvania, et al., Three Hundred Dollars ($300.00) for costs herein expended.

See Petition at App. 1. (Emphasis added).

Again, ***Rule 43*** of this Court identifies the ***"prevailing" party as that "side" which is allowed costs***. Therefore, ***in the Stacey case***, it is ***the language of the judgment*** and mandate of the Supreme Court which must be inspected to determine the identity of the prevailing party on appeal, ***not the "catalyst theory" as described in Buckhannon.*** Also, the Supreme Court's identification of the "victor" is not open to challenge by the losers on appeal. See *In re Sanford Fork & Tool Co.*, 160 U.S. 247 (1895); *Sibbald v. U.S.*, 37 U.S. 488 (1838).

Petitioner Stacey as a ***pro se*** litigant below saw all of his claims dismissed ***with prejudice*** in federal District Court with

the command, "[t]he Clerk is directed to mark this case closed." The Staceys were given ***no opportunity to amend*** their pleadings; every claim was summarily terminated, without any exploration of the district court's rationale.

In the Third Circuit, Stacey's most central claims were lost through that court's erroneous reliance on its maverick ***expansion*** of the ***Rooker-Feldman*** doctrine which stripped jurisdiction away from the federal district court. See *Exxon Mobil Corp. v. Saudi Basic Industries Corp.*, 544 U.S. 280 (2005). Any motion Petitioner made for reconsideration was unavailing. Not until Stacey brought his objections to this Court did he ***succeed*** in wedging open the doors to the federal forum so he could at last have an opportunity to be heard on the merits of his claims.

The current and second petition [2] for certiorari filed by Raymond is brought because the Third Circuit failed [3] to fully honor the mandate of the Supreme Court, or carry into execution its plain meaning. More than four years have past since November 6, 2002, when he and his mother, now deceased, first filed their ***pro se*** Complaint in federal court.

The City is fixated on the merits of this case in its brief, e.g., "review the merits," "judgment on the merits," "dispose of the merits." (Brief at 1, 13). The City further states:

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[2] Counsel for the City of Hermitage misstates the facts that the Staceys filed four petitions for certiorari. (City brief at 6, 7, 11, 15). The docket in this Court shows there were ***only three petitions*** for certiorari docketed: Helen at No. 02-1032, and Raymond at 05-199 and the current one at 06-744. Nevertheless, there should be no shame or censure in bringing adverse and erroneous decisions below to this Court on certiorari, which has always been permitted by the Rules of the Court.

[3] The Third Circuit in proceeding did not even ask the parties how the ***impact of*** *Exxon Mobil* would affect them, as that court did by letter to the parties in *Exxon Mobil*, which was also a case in the Third Circuit.

> Petitioner relies on *Texas State Teachers Ass'n v. Garland Indep. Sch. Dist.*, 489 U.S. 782 (1989), yet ignores the underlying premise recognized by this Court that a party will be considered to be "prevailing" only where that party has "established his entitlement to some relief on the merits of his claim, either in the trial court or on appeal." *Id.* at 790. Petitioner has never been close to establishing entitlement to relief on the merits. This Court's Order of October 11, 2005 (App. 1) simply remanded the matter back to the Third Circuit for further consideration — nothing more. In fact, the only decisions on the merits have been made adverse to the Petitioner.

Brief, at 14.

Equally important as ***establishing federal jurisdiction*** of Petitioners' claims are the ***merits of the case and the equities on appeal***. These include whether the City of Hermitage and other Defendants, as co-conspirators, are liable as state actors for seizing and destroying the Stacey properties without a warrant or court order in violation of the Fourth and Fourteenth Amendments. See *Soldal v. Cook County, Ill.*, 506 U.S. 56 (1992).

In their ***pro se*** Complaint (Petition App. 41), the Staceys make their claim against the City for the ***lien*** which the City ***filed without notice*** against the Stacey land.

In the lien, which asks for costs and ***backdoor attorney fees***,[4] the ***City admits*** that they demolished the Stacey home

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[4] The City lien was filed in March 2001. This was four months after the final decree in state court dissolving the injunction against the City. In their federal motion to dismiss, the City raised the ***Rooker-Feldman*** doctrine to bar federal jurisdiction of the Staceys' claims. The ***City had to know*** that their filing of the lien and the actual seizure and destruction of the Stacey properties were ***independent claims*** that occurred ***after*** the final state decree and were ***not considered in any of***

(containing the Staceys' belongings) pursuant to City ordinance in concert with other Defendants (Virostick Transfer, the Seredays, English & Assoc., Wodzianski & Smith, Atty. Kuster and the Ekker law firm). See City lien reproduced in the Appendix at R.App. 1-3.

These ***self-serving admissions*** in the lien (filed without notice) that the City of Hermitage, pursuant to its property Code, acted to destroy the Stacey property (without warrant or court order), surely ***meet the requirements of 42 U.S.C. § 1983*** that the City was a ***state actor*** and is liable for the ***deprivation*** of Petitioners' rights as secured by the

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the state proceedings. Federal jurisdiction of independent claims is reaffirmed by this Court in *Exxon Mobil Corp. v. Saudi Basic Industries Corp.*, 544 U.S. 280 (2005). The City's challenge of federal jurisdiction over Plaintiffs' independent claims, appears to have been ***frivolous*** in nature and in essence ***a delaying tactic by the City***.

The four-year delay in this case has drained Petitioner emotionally and economically. ***Petitioner has spent most of his life's savings bringing this action in federal court under § 1983***. This Court has condemned the use of delaying tactics by wealthy or insured parties with super resources as a tactic employed to damage poor litigants.

In *Buckhannon*, the dissent quotes Congressional sentiment from legislative history of 42 U.S.C. § 1988 as to the disparity of resources between government and private litigants:

> Congress enacted § 1988 to ensure that ***nonaffluent*** plaintiffs would have "effective access" to the Nation's courts to enforce civil rights laws. * * * Because a vast majority of the victims of civil rights violations ***cannot afford legal counsel***, they are unable to present their cases to the courts. . . . [This statute] is designed to give such persons effective access to the judicial process. . . . If private citizens are to be able to assert their civil rights, and if those who violate the Nation's fundamental laws are not to proceed with impunity, then citizens must have the ***opportunity to recover what it costs*** them to vindicate these rights in court. . . . quoted in part in *Kay v. Ehrler*, 499 U.S. 432, 436, n. 8 [1991]. See also *Newman v. Piggie Park Enterprises, Inc.*, 390 U.S. 400, 401-402 [1968].

Buckhannon Bd. and Care Home, Inc. v. West Virginia Dept. of Health and Human Resources, 532 U.S. 598, 636, n. 9 (2001). (Some citations omitted). (Emphasis added).

Constitution, ***as alleged by the Staceys in their pro se Complaint***. See Complaint (Pet.App. 31 *et seq.*: ¶ 22, ¶ 37, ¶¶ 42-45); *Gomez v. Toledo*, 446 U.S. 635 (1980); *Estelle v. Gamble*, 429 U.S. 97 (1976); *Haines v. Kerner*, 404 U.S. 519 (1972); *Conley v. Gibson*, 355 U.S. 41 (1957).

In addition to the admissions in the lien, the ***facts of demolition*** are confirmed in City affidavits (R.App. 5),[5] in news articles (R.App. 4), and by the state appellate court itself:

> On November 6, 2000, the trial court entered an order affirming its prior decree [denying the temporary injunction against the City of Hermitage]. The following day, November 7, 2000, the ***City demolished the structure***. * * * ***[W]e do not condone the City's haste***.

Stacey v. City of Hermitage Bd. of Appeals, 789 A.2d 772, 774, 775 (Pa.Cmwlth. 2001). (Emphasis added).

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[5] The City filed affidavits with its motion in state court to dismiss Helen Stacey's appeal for ***mootness*** because the family home, which was the subject matter of the injunction, had been deliberately destroyed by the City (while ***trespassing without a warrant or court order***, as now alleged by Petitioner).

In the past, if a defendant mooted a case by secretly destroying the subject of an injunction, the courts have given equitable relief by ordering the defendant to ***rebuild the property*** to restore the ***status quo***. See *O'Donnell v. Lehigh Nav. Coal Co.*, 324 Pa. 369 (Pa. 1936); *Ramsburg v. American Inv. Co. of Ill.*, 231 F.2d 333 (7th Cir. 1956); *Porter v. Lee*, 328 U.S. 246 (1946) (where a defendant . . . completes the acts sought to be enjoined the court may by mandatory injunction restore the status quo); *Ives v. Edison*, 83 N.W. 120 (Mich. 1900).

The City in its motion also requested ***all*** its ***attorney fees***, which was denied by the state appellate court. *Stacey (Pa.)*, 789 A.2d at 777, n. 5. Asking a second time for attorney fees that may be included in the lien filed by the City seems devious and appears to be double dealing in secret.

The Third Circuit twice found Petitioner's claim against the filing of the property lien by the City to be a valid due process issue. *Stacey I* (unpublished, no depository found, see Petition App. 28); *Stacey II*, 178 Fed.Appx. 94, 101, 103 (3rd Cir. 2006). Further, the Third Circuit stated:

> The City defendants . . . do ***not identify the order*** that they allegedly followed or further discuss the circumstances surrounding the decision to demolish the home on November 7, 2000. We conclude that the ***City defendants have not shown they are entitled to immunity*** from liability.

Id., at 100. (Emphasis added).

So, there appears to be sufficient evidence here to show the City's liability under 42 U.S.C. § 1983.

Petitioner Stacey's journeys through the appellate system have entitled and authorized him to receive consideration of ***all*** his ***independent claims*** in a federal forum. He has spent over four years in pursuit of this goal; his efforts have been both ***time-consuming and costly***. He is already a prevailing party and a "victor" in the U.S. Supreme Court; his fee award was never based on any application to his situation of the catalyst theory, which is rejected in *Buckhannon Bd. and Care Home, Inc. v. West Virginia Dept. of Health and Human Resources*, 532 U.S. 598 (2001). Petitioner is ***not*** "a litigant who left the courthouse emptyhanded." *Buckhannon*, at 614. Petitioner has succeeded in flinging open the doors to the courthouse, after being ushered out with prejudice ("The Clerk is directed to mark this case closed") by a district court judge with no expressed rationale.

Because the ***Stacey*** (*Stacey II*) case was not and is ***not here on a catalyst theory***, it would be ***frivolous and a delaying tactic*** now for the City to ask this Court to look at

Buckhannon instead of the mandate in an effort to determine who is the "prevailing party" or "victor" in *Stacey v. City of Hermitage* (U.S. S.Ct. No. 05-199 (2005)).

In *Buckhannon*, litigation arose out of a corporate suit for declaratory judgment, which was dismissed and mooted after specific action taken by a state legislature. The corporate plaintiffs originally brought their suit under the Fair Housing Amendments Act and the Americans with Disabilities Act. Only after the case was mooted did the corporate plaintiffs move in a lower court for an award of fees on a catalyst theory. This type of situation is in no sense comparable to the circumstance or procedural status of a litigant whose costs have been awarded to him on appeal by virtue of plain language in the U.S. Supreme Court's mandate, entered in response to the successful filing of a petition for certiorari.

Chief Justice Rehnquist begins his opinion in *Buckhannon* by categorizing "prevailing party" as a "legal term of art", followed by this definition from Black's Law Dictionary:

> "[P]revailing party" . . . a party in whose favor a judgment is rendered, regardless of the amount of damages awarded <in certain cases, the court will award attorney's fees to the prevailing party>.-Also termed *successful party*." This view that a "***prevailing party***" is one who has been ***awarded some relief*** by the court can be distilled from our prior cases.

Buckhannon, at 603. (Footnote omitted, emphasis added). See **S.Ct. Rule 43**.

Justice Rehnquist also relies on *Hanrahan v. Hampton*, 446 U.S. 754 (1980) for the proposition that it was the intent of Congress to permit "'an interlocutory award only to a party who has established his entitlement to some relief on

the merits of his claims, either in the *trial court* or *on appeal*" (emphasis added))." *Buckhannon*, at 604; *Hanrahan*, at 757. Justice Rehnquist concedes in *Buckhannon* that the House Report to § 1988 definitely emphasized that "[t]he phrase '***prevailing party***' is ***not intended to be limited*** to the victor only after entry of a final judgment following a full trial on the merits, . . ." H.R.Rep. No. 94-1558, p. 7 (1976). (Emphasis added). The opinion goes on to say that the Senate report explains that ""parties may be considered to have ***prevailed*** when they vindicate rights . . . ***without formally obtaining relief***," S.Rep. No. 94-1011, p. 5 (1976)' *Buckhannon*, at 607. (Emphasis added).

Justice Scalia (with whom Justice Thomas joined, concurring) wrote that in *Mansfield, C. & L.M. Ry. Co. v. Swan*, 111 U.S. 379 (1884), the '***plaintiffs "prevailed"*** because defendants' original ***position as to jurisdiction*** was defeated.' *Buckhannon*, at 614, n. 2. (Emphasis added). Scalia goes on to say that even in the case of a court-approved settlement or consent decree, "even if there has been no judicial determination of the merits, the ***outcome*** is ***at least*** the product of, and ***bears the sanction of, judicial action*** *in the lawsuit.*" *Buckhannon*, at 619. (Emphasis added).

Scalia thus appears to have conceded that it was the intent of ***Congress to allow*** fee awards '***at least*** to those who achieve an ***enforceable "alteration of the legal relationship*** of the parties".' *Buckhannon*, at 620. (Emphasis added).

Petitioner correctly relies on *Texas StateTeachers* (as did the Court in *Buckhannon*) for the proposition that ***material alteration of the legal relationship*** of the parties permits the award of attorney fees. *Texas State Teachers*, 489 U.S. at 790. Such awards are proper *pendente lite* where a party has "established his ***entitlement to some relief*** . . . either ***in the***

trial court or on appeal." *Id.*, 792-793 (emphasis added); quoting *Hanrahan,* 446 U.S. at 757.

Entitlement, as defined in Black's Law Dictionary, is a ***right to benefits*** which "***may not be abridged without due process***." The U. S. Supreme Court's judgment and ***mandate furnishes the Petitioner with the right to have his claims heard on their merits*** in a federal forum; petitioner is thus ***entitled*** by the U.S. Supreme Court and, therefore, judicially received ***some relief*** on the merits of his claims.

As Justice Ginsberg reminds us in her dissent in *Buckhannon*, it is in line with the majority's description of precedent (i.e., *Parham*) to conclude that a plaintiff can qualify as the victor or prevailing party "based on a ***finding or retention of jurisdiction***." *Buckhannon* (dissent), at 638, n. 11.

In *Parham*, the circuit court ordered the district court to retain jurisdiction over the subject matter of the suit. *Parham v. Southwestern Bell Telephone Co.*, 433 F.2d 421 (8th Cir. 1970). In *Stacey v. City of Hermitage*, U.S. S.Ct. No. 05-199 (2005), the circuit court was ordered to reconsider the case in light of *Exxon Mobil*'s holding that the ***Rooker-Feldman*** doctrine could not be expanded by the Third Circuit to eliminate lawful federal jurisdiction over federal claims.

Because Petitioner prevailed on appeal to the U.S. Supreme Court, jurisdiction of his claims was retained in the district court. This is a ***change in the legal relationship*** between the plaintiff and the defendants, who without the intervention of the U.S. Supreme Court, would have successfully terminated all of the plaintiff's most central and fundamental federal claims in the district court, with prejudice. ***Defendants***' original ***position as to jurisdiction*** was thus "***defeated***." See *Mansfield, supra*; *Buckhannon* (concurrence), at 614, n. 2.

It has been established by virtue of the mandate of the Supreme Court in *Stacey v. City of Hermitage*, U.S. S.Ct. No. 05-199 (2005), that Petitioner has met the standard for a ***prevailing party entitled to a fee award***.

In his Petitions for Certiorari and Mandamus, Petitioner has extensively briefed his argument that the Court of Appeals is bound by the specific terms of the mandate, and must carry it into execution. The Third Circuit has no right to review the award of costs for error, or to give costs to some other party in the case, and has no right to alter the award assigned to Petitioners. See *Sanford* and *Sibbald*, *supra*. The ***status*** of the Petitioners ***as prevailing*** in the U.S. Supreme Court is ***no longer a matter left open to discretion below*** under the mandate of this Court.

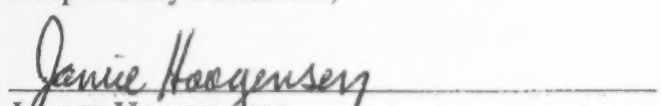
Petitioners are ***entitled to attorney fees*** both ***under*** the traditional auspices of 42 U.S.C. ***§ 1988, and*** also under the specific terms of ***the mandate*** of the U.S. Supreme Court in *Stacey v. City of Hermitage*, U.S. S.Ct. No. 05-199 (2005).

CONCLUSION

The Third Circuit Court of Appeals is bound by the letter and spirit of controlling precedent to honor the mandate and judgment of this Court and to carry it into full execution on all the issues presented.

The Writ should be granted.

Respectfully submitted,



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349 NEW ROAD
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Date: February 10, 2007, Saturday

REPLY APPENDIX

IN THE COURT OF COMMON PLEAS OF MERCER COUNTY, PENNSYLVANIA CIVIL ACTION - LAW

CITY OF HERMITAGE, a Municipality of Mercer County, Pennsylvania	:	No. 2001-878
vs.	:	
HELEN STACEY, widow	:	

MUNICIPAL CLAIM

The City of Hermitage, a Pennsylvania Home Rule municipality, created by and existing under the laws of the Commonwealth of Pennsylvania, hereby files this claim and lien for the amount set forth below, including interest and costs, against the property hereinafter described, with the improvements thereon, setting forth as follows:

1. The name and address of the claimant is the City of Hermitage, 800 Hermitage Road, Hermitage, Mercer County, Pennsylvania.
2. The name and address of the owner(s) of the property against which the claim is filed is Helen Stacey, c/o Gary L. Uhl, 2220 High Street, Cuyahoga Halls, Ohio 44421.
3. The property against which said claim is filed is situate in the City of Hermitage, Mercer County, Pennsylvania, being more particularly identified as follows:

   1560 East State Street, Hermitage, PA 16148
   Mercer Parcel #12-330-004
   Deed recorded at 72 DR 3010, Mercer County Records

4. This claim is for expenses incurred by the City of Hermitage in causing the demolition of a dilapidated structure located on the premises, which structure was determined to be dilapidated and in need of immediate repair. Because the owner failed to make requisite repairs within the prescribed time, the structure was demolished on or about November 27, 2000. The demolition and imposition of costs and expenses caused by the demolition is pursuant to the City of Hermitage Property Maintenance Code (Ordinance No. 15-98), and in particular, Section 110.3 of said ordinance.

5. The expenses and costs incurred by the City of Hermitage are itemized as follows:

09/11/00	Richard Sereday Excavating - Invoice #1002 (Excavator waiting time for demolition)	$400.00
09/14/00	Virostick Transfer Company - Invoice #9395 (Pack, move and storage of Stacey belongings)	922.00
10/10/00	Virostick Transfer Company - Invoice #9410 (storage 9/30-10/30)	130.00
11/02/00	Wodzianski & Smith, Inc. - Invoice #00-46-01 (Inspection)	492.55
11/07/00	Wodzianski & Smith, Inc. - Invoice #00-46-02 (Attend hearing)	382.55
11/07/00	Virostick Transfer Company - Invoice #9454 (storage 10/30-11/30)	130.00
11/07/00	Richard G. English &Assoc.-Invoice #001018C (appraisal of 1560 E. State Street)	500.00
11/14/00	Virostick Transfer Company - Invoice #7745 (move Stacey belongings from City Garage to Virostick storage trailer)	111.00
11/27/00	Richard Sereday Excavating - Invoice #1003 (demolition and clearing of property)	2,950.00
11/30/00	Lewis and Ristvey Attorneys at Law (Legal fees for Board of Appeals)	862.50
12/12/00	Virostick Transfer Company - Invoice #9499 (storage 11/30-12/30)	130.00
1/17/01	Virostick Transfer Company - Invoice #9538 (storage 12/30-1/30)	130.00
01/30/01	Ekker, Kuster, McConnell & Epstein, LLP (Attorneys fees and costs)	6,299.50
02/6/01	Virostick Transfer Company - Invoice #9577 (storage 1/30-2/28)	130.00
TOTAL		**$13,570.10**

The sum of $13,570.10 is the amount of municipal claim against said property for the work done as aforesaid. The City of Hermitage, Mercer County, Pennsylvania, files this claim and lien under and by virtue of the Acts of Assembly of the said Commonwealth of Pennsylvania relating thereto and the Ordinance and the Resolution aforesaid.

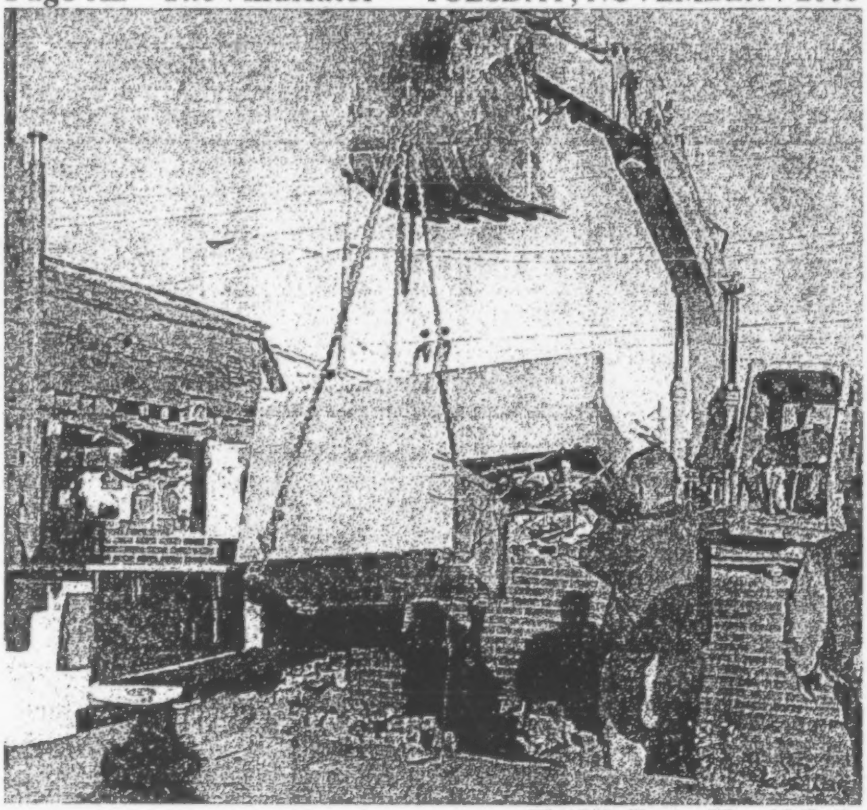
CITY OF HERMITAGE

Dated: 3/9/2001 By s/Thomas W. Kuster , Solicitor

To the Prothonotary of Mercer County:

You, are requested to enter the above claim in the paper docket and upon judgment and locality index, Hermitage, Mercer County, Pennsylvania

By s/Thomas W. Kuster , Solicitor



The Vindicator/Harold Gwin

DEMOLISHED: Workers from Sereday Demolition and Excavation of Brookfield lower a stainless steel soda fountain onto the back of a city pickup truck as the Stacey house in Hermitage is torn down. The house has been the subject of a court controversy since the city ordered the owners to vacate it in 1997.

(SEAL) CITY OF HERMITAGE
800 North Hermitage Road
Hermitage, PA 16148
Telephone: 724-981-0800
FAX: 724-981-2008
Email: city @ hermitage.net
Homepage: http://www.hermitage.net

TO: CITY SOLICITOR
FROM: CITY INSPECTOR
SUBJECT: DEMOLITION OF 1560 E. STATE STREET
DATE: 01/08/01

This statement is to make known to all interested parties that on November 7, 2000, the structure located at 1560 E. State Street was demolished in accordance with the Hermitage Property Maintenance Code, Section 110. The City obtained bids from three different contractors. Sereday Excavating was low bidder_ ($2995.00)_ an[d] issued the contract. Sereday Excavating has been paid in full.

s/ Russell V. Penn Jr.
Russell V. Penn, Jr.
City Inspector

c/c City Manager

State of Pennsylvania
County of Mercer
I, Beth A. Triggiani, Notary, acknowledge that Russell V. Penn, Jr, known to me to be the City Inspector for the City of Hermitage, signed the above on 1/8/2001

s/ Beth A. Triggiani, Notary

Beth A. Triggiani, Notary Public
Hermitage, Mercer County
My Commission Expires April 30, 2001